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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/254,032    04/26/99    SERRE

G    3339-392

000826    HM22/1002  
ALSTON & BIRD LLP  
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EXAMINER

ROBINSON, H

ART UNIT

PAPER NUMBER

1653

DATE MAILED:

10/02/01

*lb*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/254,032

Applicant(s)

SERRE ET AL.

Examiner

Hope A. Robinson

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 1-10 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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Restriction to one of the following inventions is required under  
35 U.S.C. 121:

I. Claims 1-6 are drawn to an artificial antigen and an in vitro  
diagnosis process, classified in class 435, subclass 69.1.

5 II. Claims 7-10, are drawn to a method of detecting autoantibodies and  
a kit, classified in class 435, subclass 7.1+.

The inventions are distinct, each from the other because of the  
following reasons:

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Invention I and Invention II are related as product and process of use.  
The inventions can be shown to be distinct if either or both of the following  
can be shown: (1) the process for using the product as claimed can be  
practiced with another materially different product or (2) the product as  
15 claimed can be used in a materially different process of using that product  
(MPEP § 806.05(h)). In the instant case because the product of Invention I can  
be used in a materially different process, for example as a medicament or in a  
bioassay. Furthermore, the method of Invention II is an alternate use of the  
product of Invention I.

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Because these inventions are distinct for the reasons given above and  
have acquired a separate status in the art as shown by their different  
classification, restriction for examination purposes as indicated is proper.

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Applicant is reminded that upon the cancellation of claims to a non-  
elected invention, the inventorship must be amended in compliance with 37  
CFR 1.48(b) if one or more of the currently named inventors is no longer an  
inventor of at least one claim remaining in the application. Any amendment of

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inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hope A. Robinson whose telephone number is (703)308-6231. The Examiner can normally be reached on Monday and Wednesday - Friday from 9:00 A.M. to 5:30 P.M. (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor Christopher S.F. Low, can be reached at (703)308-2923.

Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703)308-0196.

Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the Examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

Hope A. Robinson, MST

Patent Examiner

*Christopher S.F. Low*  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600